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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CASEY BLOTZER and EDWARD) Case No.
MAKARON, individually and on behalf)
of all others similarly situated,)

Plaintiff,)

vs.)

RCF, LLC,)

Defendant.)

CLASS ACTION

**COMPLAINT FOR VIOLATIONS
OF:**

1. NEGLIGENT VIOLATIONS
OF THE TELEPHONE
CONSUMER PROTECTION
ACT [47 U.S.C. §227 ET
SEQ.]
2. WILLFUL VIOLATIONS
OF THE TELEPHONE
CONSUMER PROTECTION
ACT [47 U.S.C. §227 ET
SEQ.]

DEMAND FOR JURY TRIAL

Plaintiff Casey Blotzer (“Plaintiff Blotzer”), and Plaintiff Edward Makaron
 (“Plaintiff Makaron”), individually and on behalf of all others similarly situated,

1 alleges the following upon information and belief based upon personal
2 knowledge:

3 **NATURE OF THE CASE**

4 1. Plaintiff Blotzer and Plaintiff Makaron brings this action
5 individually and on behalf of all others similarly situated seeking damages and
6 any other available legal or equitable remedies resulting from the illegal actions
7 of RCF, LLC (“Defendant”), in negligently, knowingly, and/or willfully
8 contacting Plaintiff Blotzer and Plaintiff Makaron on their cellular telephone in
9 violation of the Telephone Consumer Protection Act, 47. U.S.C. § 227 *et seq.*
10 (“TCPA”), thereby invading Plaintiff’s privacy.

11 **JURISDICTION & VENUE**

12 2. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff
13 Blotzer and Plaintiff Makaron are residents of California, and seek relief on
14 behalf of a Class, which will result in at least one class member belonging to a
15 different state than that of Defendant, a company incorporated in the state of
16 Florida, and its principal place of business in the state of Florida. Plaintiff also
17 seeks up to \$1,500.00 in damages for each call in violation of the TCPA, which,
18 when aggregated among a proposed class in the thousands, exceeds the
19 \$5,000,000.00 threshold for federal court jurisdiction. Therefore, both diversity
20 jurisdiction and the damages threshold under the Class Action Fairness Act of
21 2005 (“CAFA”) are present, and this Court has jurisdiction.

22 3. Venue is proper in the United States District Court for the Central
23 District of California pursuant to 18 U.S.C. 1391(b) and 18 U.S.C. § 1441(a)
24 because Defendant does business within the state of California and Plaintiff
25 Blotzer resides within the county of Orange, and Plaintiff Makaron resides within
26 the county of Los Angeles.

27 **PARTIES**

28 4. Plaintiff, Casey Blotzer (“Plaintiff Blotzer”), is a natural person

1 residing in Buena Park, California and is a “person” as defined by 47 U.S.C. §
2 153 (10).

3 5. Plaintiff, Edward Makaron (“Plaintiff Makaron”), is a natural person
4 residing in Chatsworth, California and is a “person” as defined by 47 U.S.C. §
5 153 (10).

6 6. Plaintiff Blotzer and Plaintiff Makaron will be collectively referred
7 to herein as “Plaintiffs.”

8 7. Defendant, RCF, LLC (“Defendant”), is in the business of offering
9 consumers and business owners business loans and is a “person” as defined by 47
10 U.S.C. § 153 (10).

11 **FACTUAL ALLEGATIONS**

12 8. Beginning in or around July of 2014 Defendant contacted Plaintiff
13 Blotzer on her cellular telephone in an attempt to solicit Plaintiff Blotzer to apply
14 for a loan with Defendant. Defendant contacted or attempted to contact Plaintiff
15 Blotzer from telephone numbers (786)607-8108 and (859)993-0373.

16 9. Defendant used an “automatic telephone dialing system”, as defined
17 by 47 U.S.C. § 227(a)(1) to place its call to Plaintiff seeking to solicit its services.
18 In fact, Defendant was instructed to press a number on the keypad to speak to a
19 live representative, who was identified as Paul.

20 10. Beginning in or around March 22, 2015, Defendant contacted
21 Plaintiff Makaron on his cellular telephone in an attempt to solicit Plaintiff
22 Makaron to apply for a loan with Defendant.

23 11. Defendant used an “automatic telephone dialing system”, as defined
24 by 47 U.S.C. § 227(a)(1) to place its call to Plaintiffs seeking to solicit its
25 services.

26 12. Defendant’s calls constituted calls that were not for emergency
27 purposes as defined by 47 U.S.C. § 227(b)(1)(A).

28 13. Defendant’s calls were placed to telephone number assigned to a

1 cellular telephone service for which Plaintiff incurs a charge for incoming calls
2 pursuant to 47 U.S.C. § 227(b)(1).

3 14. Defendant utilized an “artificial or prerecorded voice” as defined by
4 47 U.S.C. § 227(b)(1)(A).

5 15. During all relevant times, Defendant did not possess Plaintiff “prior
6 express consent” to receive calls using an automatic telephone dialing system or
7 an artificial or prerecorded voice on their cellular telephones pursuant to 47
8 U.S.C. § 227(b)(1)(A).

9 **CLASS ALLEGATIONS**

10 16. Plaintiffs bring this action individually and on behalf of all others
11 similarly situated, as a member of the proposed class (hereafter “The Class”)
12 defined as follows:

13 All persons within the United States who received any
14 solicitation/telemarketing telephone calls from
15 Defendant to said person’s cellular telephone made
16 through the use of any automatic telephone dialing
17 system or an artificial or prerecorded voice and such
18 person had not previously consented to receiving such
19 calls within the four years prior to the filing of this
20 Complaint

21 17. Plaintiffs represent, and is a member of, The Class, consisting of All
22 persons within the United States who received any collection telephone calls from
23 Defendant to said person’s cellular telephone made through the use of any
24 automatic telephone dialing system or an artificial or prerecorded voice and such
25 person had not previously not provided their cellular telephone number to
26 Defendant within the four years prior to the filing of this Complaint.

27 18. Defendant, its employees and agents are excluded from The Class.
28 Plaintiffs do not know the number of members in The Class, but believes the
Class members number in the thousands, if not more. Thus, this matter should be

1 certified as a Class Action to assist in the expeditious litigation of the matter.

2 19. The Class is so numerous that the individual joinder of all of its
3 members is impractical. While the exact number and identities of The Class
4 members are unknown to Plaintiffs at this time and can only be ascertained
5 through appropriate discovery, Plaintiffs are informed and believes and thereon
6 alleges that The Class includes thousands of members. Plaintiffs allege that The
7 Class members may be ascertained by the records maintained by Defendant.

8 20. Plaintiffs and members of The Class were harmed by the acts of
9 Defendant in at least the following ways: Defendant illegally contacted Plaintiffs
10 and Class members via their cellular telephones thereby causing Plaintiffs and
11 Class members to incur certain charges or reduced telephone time for which
12 Plaintiffs and Class members had previously paid by having to retrieve or
13 administer messages left by Defendant during those illegal calls, and invading the
14 privacy of said Plaintiffs and Class members.

15 21. Common questions of fact and law exist as to all members of The
16 Class which predominate over any questions affecting only individual members
17 of The Class. These common legal and factual questions, which do not vary
18 between Class members, and which may be determined without reference to the
19 individual circumstances of any Class members, include, but are not limited to,
20 the following:

- 21 a. Whether, within the four years prior to the filing of this
22 Complaint, Defendant made any telemarketing/solicitation call
23 (other than a call made for emergency purposes or made with
24 the prior express consent of the called party) to a Class
25 member using any automatic telephone dialing system or any
26 artificial or prerecorded voice to any telephone number
27 assigned to a cellular telephone service;
- 28 b. Whether Plaintiffs and the Class members were damages

1 thereby, and the extent of damages for such violation; and

2 c. Whether Defendant should be enjoined from engaging in such
3 conduct in the future.

4 22. As a person that received numerous telemarketing/solicitation calls
5 from Defendant using an automatic telephone dialing system or an artificial or
6 prerecorded voice, without Plaintiffs' prior express consent, Plaintiffs are
7 asserting claims that are typical of The Class.

8 23. Plaintiffs will fairly and adequately protect the interests of the
9 members of The Class. Plaintiffs have retained attorneys experienced in the
10 prosecution of class actions.

11 24. A class action is superior to other available methods of fair and
12 efficient adjudication of this controversy, since individual litigation of the claims
13 of all Class members is impracticable. Even if every Class member could afford
14 individual litigation, the court system could not. It would be unduly burdensome
15 to the courts in which individual litigation of numerous issues would proceed.
16 Individualized litigation would also present the potential for varying, inconsistent,
17 or contradictory judgments and would magnify the delay and expense to all
18 parties and to the court system resulting from multiple trials of the same complex
19 factual issues. By contrast, the conduct of this action as a class action presents
20 fewer management difficulties, conserves the resources of the parties and of the
21 court system, and protects the rights of each Class member.

22 25. The prosecution of separate actions by individual Class members
23 would create a risk of adjudications with respect to them that would, as a practical
24 matter, be dispositive of the interests of the other Class members not parties to
25 such adjudications or that would substantially impair or impede the ability of such
26 non-party Class members to protect their interests.

27 26. Defendant has acted or refused to act in respects generally applicable
28 to The Class, thereby making appropriate final and injunctive relief with regard to

1 the members of the Class as a whole.

2 **FIRST CAUSE OF ACTION**

3 **Negligent Violations of the Telephone Consumer Protection Act**

4 **47 U.S.C. §227 et seq.**

5 27. Plaintiffs repeat and incorporate by reference into this cause of
6 action the allegations set forth above at Paragraphs 1-26.

7 28. The foregoing acts and omissions of Defendant constitute numerous
8 and multiple negligent violations of the TCPA, including but not limited to each
9 and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

10 29. As a result of Defendant's negligent violations of *47 U.S.C. § 227 et*
11 *seq.*, Plaintiffs and the Class Members are entitled an award of \$500.00 in
12 statutory damages, for each and every violation, pursuant to *47 U.S.C. §*
13 *227(b)(3)(B).*

14 30. Plaintiffs and the Class members are also entitled to and seek
15 injunctive relief prohibiting such conduct in the future.

16 **SECOND CAUSE OF ACTION**

17 **Knowing and/or Willful Violations of the Telephone Consumer Protection**

18 **Act**

19 **47 U.S.C. §227 et seq.**

20 31. Plaintiffs repeat and incorporate by reference into this cause of
21 action the allegations set forth above at Paragraphs 1-30.

22 32. The foregoing acts and omissions of Defendant constitute numerous
23 and multiple knowing and/or willful violations of the TCPA, including but not
24 limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et*
25 *seq.*

26 33. As a result of Defendant's knowing and/or willful violations of *47*
27 *U.S.C. § 227 et seq.*, Plaintiffs and the Class members are entitled an award of
28 \$1,500.00 in statutory damages, for each and every violation, pursuant to *47*

1 *U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).*

2 34. Plaintiffs and the Class members are also entitled to and seek
3 injunctive relief prohibiting such conduct in the future.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiffs request judgment against Defendant for the following:

6 **FIRST CAUSE OF ACTION**

7 **Negligent Violations of the Telephone Consumer Protection Act**

8 **47 U.S.C. §227 et seq.**

- 9 • As a result of Defendant's negligent violations of *47 U.S.C.*
10 *§227(b)(1)*, Plaintiffs and the Class members are entitled to and
11 request \$500 in statutory damages, for each and every violation,
12 pursuant to *47 U.S.C. 227(b)(3)(B)*.
13 • Any and all other relief that the Court deems just and proper.

14 **SECOND CAUSE OF ACTION**

15 **Knowing and/or Willful Violations of the Telephone Consumer Protection**
16 **Act**

17 **47 U.S.C. §227 et seq.**

- 18 • As a result of Defendant's willful and/or knowing violations of *47*
19 *U.S.C. §227(b)(1)*, Plaintiffs and the Class members are entitled to
20 and request treble damages, as provided by statute, up to \$1,500, for
21 each and every violation, pursuant to *47 U.S.C. §227(b)(3)(B)* and
22 *47 U.S.C. §227(b)(3)(C)*.
23 • Any and all other relief that the Court deems just and proper.

24 Respectfully Submitted this 8th Day of June, 2015.

25 LAW OFFICES OF TODD M. FRIEDMAN, P.C.

26 By: /s/ Todd M. Friedman

Todd M. Friedman

27 Law Offices of Todd M. Friedman

28 Attorney for Plaintiff